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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/822,913   | 03/30/2001  | Steven G. Smith      | BELL-0073/00349     | 9013             |
| 23377  | 7590        | 01/02/2004           | EXAMINER            |                  |
| WOODCOCK WASHBURN LLP<br>ONE LIBERTY PLACE, 46TH FLOOR<br>1650 MARKET STREET<br>PHILADELPHIA, PA 19103 |             |                      | NGUYEN, TAI T       |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2632                | 16               |
| DATE MAILED: 01/02/2004  |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                           |                  |
|------------------------------|---------------------------|------------------|
| <b>Office Action Summary</b> | Application No.           | Applicant(s)     |
|                              | 09/822,913                | SMITH ET AL.     |
|                              | Examiner<br>Tai T. Nguyen | Art Unit<br>2632 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 10 December 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-3 and 5-9 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-3 and 5-9 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) All    b) Some \* c) None of:

        1. Certified copies of the priority documents have been received.

        2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

        3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    \* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

    a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

1) Notice of References Cited (PTO-892)      4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) Notice of Informal Patent Application (PTO-152) \_\_\_\_\_ .

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ .      6) Other: \_\_\_\_\_ .

**DETAILED ACTION**

***Specification***

1. The disclosure is objected to because of the following informalities: in the cross references to the related applications, applicant must provide serial numbers and filing dates of copending applications. All references to attorney docket numbers must be deleted.

Appropriate correction is required.

***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1, 3, and 5-9 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of copending Application No. 09/822,912. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications are directed to a method for indicating the status of a battery in a portable computing device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the battery status be provided to the user interface of the applications program.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-3 and 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duley (US 5,459,671) in view of Hansson (US 6,323,775).

**Regarding claim 1**, Duley discloses a method for indicating the battery status in a portable computer including all subject matters as follow:

retrieving battery status data from a basic input-output system (BIOS) on a computing device, the battery status data reflecting a power capacity of the battery (46, col. 5, lines 4-39);

comparing the retrieved battery status data to a predefined battery status threshold stored on the computing device (col. 11, lines 50- 67 and col. 12, lines 1-28); and

based on the comparison of the battery status data to the predefined battery status threshold, proving a battery status indicator to an applications program placed within a micro-controller (16) in order to display battery status information on a computing display (12, 20; figure 1; col. 4, line 62 through col. 5, line 39).

Duley discloses the instant claimed invention except for the application program including a user interface to a remote network for integration of the battery status indicator into the user interface of the application program. Hansson teaches a user interface (15-17) interfacing with a remote network (30) for integration of the battery indicator into the user interface of the application program (col. 2, lines 42-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the network interface design of Hansson into the system as disclosed by Duley for the purpose of providing recharge notification within range of the charging unit.

**Regarding claim 2**, Duley discloses the step of using a software placed within the microcontroller (16) monitors the charge gauge integrated circuit (18) and retrieves battery status data e.g. charge, temperature, and battery status information from BIOS on the computing device (col. 5, lines 4-15) but fails to disclose the battery status data relating to the voltage of the battery. Since Duley disclose a relevant art using a monitor device to monitor the voltage level of a rechargeable battery (col. 1, lines 41-50), it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the software as disclosed by Duley to retrieve battery voltage data for the purpose of monitoring the battery voltage level in order to charge/replace the battery.

**Regarding claim 3**, Duley disclose a software placed within a micro-controller (16) that monitors the charge gauge integrated circuit (18) and obtains battery data and battery status information, wherein the micro-controller (16) communicates the battery information to a system microprocessor (10) which initiating a BIOS interrogating routine to retrieve battery status data from a BIOS in the computing device and providing a user perceptible battery status indicator (12, 20) via the applications program on the computing device (col. 5, lines 14-39).

**Regarding claim 5**, refer to claim 1 above.

**Regarding claim 6**, as shown in figure 2, Duley discloses the step of providing the battery status indicator comprises displaying a gauge representative of a current battery status.

**Regarding claim 7**, Duley also disclose that the predefined battery status threshold is user-definable by level setting (28, col. 5, line 60 through col. 6, line 5).

**Regarding claim 8**, refer to claim 1 above.

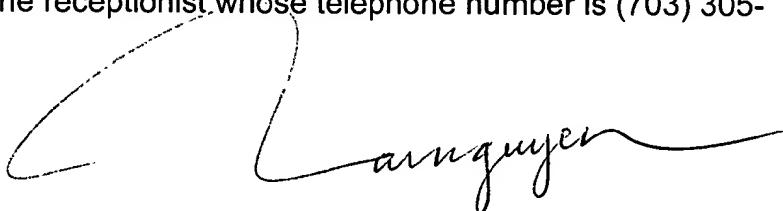
**Regarding claim 9**, refer to claim 3 above.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tai T. Nguyen whose telephone number is (703) 308-0160. The examiner can normally be reached on Monday-Friday from 7:30am-5:00pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Daniel J. Wu, can be reached at (703) 308-6730. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3988 for regular communications and (703) 305-3988 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



December 24, 2003  
Tai T. Nguyen  
Examiner  
Art Unit 2632